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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,056	04/12/2002	Witta Bruss	6713-Dr-Hn/be	4384

7590 06/18/2004

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EXAMINER

KEEHAN, CHRISTOPHER M

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/009,056	BRUSS ET AL.	
	Examiner	Art Unit	
	Christopher M. Keehan	1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 9 and 11-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews et al. (GB 2207867A). Andrews et al. disclose a film comprising at least one elastic polyurethane film (page 3, last paragraph), the film being provided with a silicone based water repellent (page 12, first paragraph).

Regarding claim 2, Andrews et al. disclose a liner covered over its entire width (page 14, last paragraph) with an anti-adhesive carrier material (page 16, first paragraph).

Regarding claim 3, Andrews et al. disclose a material as instantly claimed (page 15, first paragraph).

Claim Rejections - 35 USC § 102

The rejection of claims 1 and 3 under 35 U.S.C. 102(b) as being anticipated by Hill et al. (5,024,875) has been maintained and is as set forth in the previous office action.

The rejection of claims 1 and 6 under 35 U.S.C. 102(b) as being anticipated by Lucast et al. (5,613,942) has been maintained and is as set forth in the previous office action.

Claim Rejections - 35 USC § 103

The rejection of claims 6-8 under 35 U.S.C. 103(a) as being unpatentable over Naestoft et al. (5,643,187) has been maintained and is as set forth in the previous office action.

The rejection of claim 2 under 35 U.S.C. 103(a) as being unpatentable over Lucast et al. (5,613,942) has been maintained and is as set forth in the previous office action.

The rejection of claim 10 under 35 U.S.C. 103(a) as being unpatentable over Lucast et al. (5,613,942) in view of Gotz (DE 4314834 A1) has been maintained and is as set forth in the previous office action.

Response to Arguments

Applicant's arguments filed 4/29/04 have been fully considered but they are not persuasive. To begin, applicant has argued that Hill et al. (5,024,875) and Lucast et al. (5,613,942) do not disclose a film of polyurethane, and has supplied a definition of a film. However, as set forth by applicant as a preferred embodiment in the specification (page 9, lines 12-25), a film of the polyurethane can also comprise individual, separate segments. This appears to be at odds with the definition supplied by applicant. The fibers of Lucast et al. can also be thought of as having individual, separate segments. Further, it is the examiner's position that the polyurethane of Hill et al. can form a film.

Applicant has also argued that claim 6 has been amended to require that each layer of the elastic film be virtually identical. This is not clear. The amended claim 6

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does not appear to contain this amended claim language. Applicant has supplied no findings that the composition of Hill et al. does not form a film. As set forth below, Tanaka et al. and Amemiya et al. disclose coating a fabric with polyurethane to form a film. This appears to be what is occurring in Hill et al.

Examiner's Comments

The specification that is present with the case contains illegible pages. It appears that there were problems with scanning the pages. Therefore, applicant is requested to submit a substitute specification. This appears to be the most expedient way to resolve the problem.

New Claim Objections

Claims 4, 11, and 12 are objected to because for the following reason: in claim 4, applicant claims "a water-resistant, silicone- or polypropylene-coated paper or film, applying to said film,". This should read "applying to said paper or film". Appropriate correction is required.

New Claim Rejections - 35 USC § 112

Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6, applicant claims a two-layer elastic film, but then claims a first polyurethane film, and the surface of the second layer being

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optionally coated with a pressure-sensitive adhesive, which would then yield an at least three layer film.

New Claim Rejections - 35 USC § 102

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Tanaka et al. (4,695,484). Tanaka et al. disclose a film comprising at least one elastic polyurethane film (col.2, lines 15-21), the elastic polyurethane film being provided with fluorocarbon water repellent (col.2, lines 35-37).

Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Amemiya et al. (4,636,424). Amemiya et al. disclose a film comprising a two-layer elastic film, the first layer being an elastic polyurethane film (col.5, lines 3-9) treated with a silicone-based water repellent (col.5, lines 10-25).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher M. Keehan whose telephone number is (571) 272-1087. The examiner can normally be reached on Monday-Friday, from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu S. Jagannathan can be reached on 571-272-1119. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher Keehan



DAVID J. BUTTNER
PRIMARY EXAMINER

June 16, 2004

